

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

UNITED STATES OF AMERICA,)
)
 v.)
) Case No. 2:18-cr-49
 ANGELO EFTHIMIATOS,)
 Defendant.)

**DEFENDANT’S UNOPPOSED MOTIONS TO CONTINUE THE TRIAL DATE, FOR A
NEW MOTIONS FILING DATE, LEAVE TO FILE MOTIONS AND TO EXCLUDE
TIME UNDER THE SPEEDY TRIAL ACT**

Angelo Efthimiatos, through counsel, respectfully moves the Court for a continuance of the September 11, 2018, trial date. Mr. Efthimiatos also moves the Court to set a new motions filing deadline and grant him leave to file motions. Finally, should this Court grant the motion to continue the trial date, Mr. Efthimiatos moves this Court for an order that the time between now and the new trial date be excluded under the Speedy Trial Act. The facts and arguments supporting these motions are set forth below:

Case status.

Mr. Efthimiatos was charged in a single count indictment on April 26, 2018, with knowingly and willfully serving as an airman without an airman's certificate in violation of 49 U.S.C. § 46306(b)(7). Mr. Efthimiatos was arraigned on May 4, 2018, and the Court ordered him detained. At that time, sixty days were requested for the filing of pre-trial motions. That request was granted and a motions filing date of July 11, 2018, was ordered. No extensions of that date have been requested before now. Mr. Efthimiatos remains detained and is currently incarcerated at the Northwest States Correctional Facility in Swanton, Vermont.

Motion for continuance of the trial date.

Mr. Efthimiatos is charged with flying a plane without a license. His trial is scheduled to begin on September 11, 2018. Mr. Efthimiatos believes that trying his case—where he is charged with flying a plane illegally—on the anniversary of the deadliest terror attack on the United States will be overly prejudicial to him at trial. It goes without saying that the terrorist attacks on September 11, 2001, were the most traumatic attacks on the United States since December 7, 1941, and were carried out by flying commercial airplanes into their intended targets. The attacks killed thousands of innocent civilians. The attacks cost the country untold billions of dollars in repair and cleanup. The 9/11 attacks were the catalyst for two costly wars in Afghanistan and Iraq, the repercussion of which are still being felt here in the U.S. and around the globe.

Most importantly, in relation to Mr. Efthimiatos' request for a continuance, the 9/11 attacks changed the way we think about flying and how we treat flying. Every person who flies is reminded of the attacks when they are subjected to security that is far more stringent than it was pre-9/11. The security is a constant reminder that airplanes were used as deadly weapons against the citizens of the United States and that the very fabric of society has irrevocably changed as a result of the 9/11 attacks. As the anniversary approaches, and particularly on the date itself, news coverage and documentaries commemorating the date will be ubiquitous. Under such circumstances, Mr. Efthimiatos feels he will not receive a fair trial if it begins on September 11th.

Counsel has conferred with AUSA Geni Cowles and she has indicated that she does not object to this request. Mr. Efthimiatos asks that the trial date be continued to a mutually exclusive time after September.

Mr. Efthimiatos moves this Court for a new motions deadline and leave to file motions.

Mr. Efthimiatos moves this Court for leave to set a new motions filing date. If granted, Mr. Efthimiatos request should not materially delay the case. Counsel anticipates filing motions related to Mr. Efthimiatos' statements made at the time of his arrest. Such motions could be filed before the end of this week and do not involve complicated legal issues. Counsel has filed such motions with the Court in other cases, as have other attorneys, so the legal landscape will not be new to the Court.

Moreover, Mr. Efthimiatos believes that the government will not be prejudiced by the extension of time for the filing of motions. Counsel believes that all of the witnesses needed for a hearing remain capable of testifying about the events that occurred on the day of Mr. Efthimiatos' arrest. Counsel has conferred on this matter with AUSA Geni Cowles and she indicates that she does not object to ordering a new motions filing deadline and granting Mr. Efthimiatos leave to file motions.

Mr. Efthimiatos agrees time should be excluded under the Speedy Trial Act.

Should this Court grant Mr. Efthimiatos' motion for a new trial date, he further moves the Court for an order that time between now and any new trial date be excluded from computation under the Speedy Trial Act. Such exclusion is warranted because the ends of justice outweigh the best interest of the public and the defendant in a speedy trial. 18 U.S.C. § 3161(h)(7)(A). Such time also would give counsel for the defendant the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. 18 U.S.C. § 3161(h)(7)(B)(iv).

Conclusion.

Wherefore, Angelo Efthimiatos, by counsel, respectfully requests an order continuing his

trial date from September 11, 2018, until the next available date convenient to the parties after September. He also moves the Court for an order setting a new motions filing deadline and leave to file motions. Finally, should the Court grant his motion to continue the trial date, he moves the Court for an order excluding time from now until such new trial date.

Dated: August 15, 2018

By: /s/ Steven L. Barth
Steven L. Barth
Assistant Federal Public Defender
126 College Street, Suite 410
Burlington, Vermont 05401
(802) 862-6990
Counsel for Angelo Efthimiatos

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

UNITED STATES OF AMERICA,)
)
 v.)
)
 ANGELO EFTHIMIATOS,)
 Defendant.)

Case No. 2:18-cr-49-cr

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of August, 2018, I electronically filed the Defendant's Motion to Continue the Trial Date, Leave to File Motions and Exclude Time Under the Speedy Trial Act, with the Clerk of Court using the CM/ECF system, which will send notification of such filing(s) to the following: Assistant United States Attorney, Geni Cowles, via eugenia.cowles@usdoj.gov.

By: /s/ Marsha V. Curtis
Marsha V. Curtis
Paralegal
Federal Public Defender Office
126 College Street, Suite 410
Burlington, Vermont 05401
(802) 862-6990